

**RSCC TAXATION SUBCOMMITTEE
MINUTES OF THE MEETING
SEPTEMBER 27, 2006
BUTTE, MT
10:00am – 11:00am**

SUBCOMMITTEE MEMBERS PRESENT: Rep. Tom McGillvray, Larry Bonderud, Carla Allen, Bill Fogarty and Dan Bucks

COUNCIL MEMBERS PRESENT: Dick Turner for Jim Lynch, Mike O'Hara, Doug Miller and Carla Allen

CONTRACT STAFF: Terry Whiteside, Gloria O'Rourke

GUESTS: Barbara Ranf, Spook Stang, Joel Clairmont (for Nancy K. Peterson), Charlie Clark, Mike Opar, Larry Finch and Sheryl Ralph

1.0 Roll Call and Minutes

Chairman Tom McGillvray requested roll call and the approval of the September 20th RSCC Taxation Subcommittee meeting minutes.

2.0 Incentives Discussion

Chairman McGillvray asked BNSF representative Barbara Ranf to comment on possible incentives that would motivate BNSF to improve freight competition in Montana. Barbara spoke of the Senate Bill 3742 Freight Rail Infrastructure Expansion Act as a good example.

Larry Finch provided handouts from a powerpoint addressing the 4R Act of 1976. Dan Bucks shared his thoughts regarding options and alternatives for taxation policies that would mitigate or bring into alignment the lack of competition in Montana. Dan emphasized that these are his thoughts as a public administrator and not as a lawyer.

Dan said that due to language in the 4R Act, tax incentives to preserve branch lines and/or to encourage new development in active areas would be viewed as discriminatory and not survive legal argument.

However, the state could possibly make a case for rate discrimination based on the assumption it is cheaper for grain to be shipped from the Midwest to the west coast than from Montana to the west coast. This situation involves interstate commerce and could be defensible under the 4R Act.

There must be an official finding that rate discrimination is indeed occurring in Montana. Once such a finding was established, a means to address the issue via tax resolve, either incentives or disincentives would be proposed. A second finding would need to establish that the federal government has failed to regulate interstate commerce to not discriminate against Montana's citizens and businesses.

The Interstate Commerce Commission did find excessive rates in Montana in the 1980's. This information would need to be brought current through a state body.

3.0 Next steps:

1. The RSCC could recommend the state validate excessive rates in Montana.
2. Validate the federal government has not acted to address the rate discrimination in Montana.

Bill Fogarty motioned to conclude the meeting. All voted in favor of dismissal.